

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

UNITED STATES DISTRICT COURT

for the

Northern District of New York

Division

Wellington, Garcia

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

D. McIntosh, Superintendent,
Lt. Dumas, Lieutenant,
Lagarde, Sergeant.
John Doe 1-6.

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Case No.

9:21-cv-135/DNH/TWD
(to be filled in by the Clerk's Office)

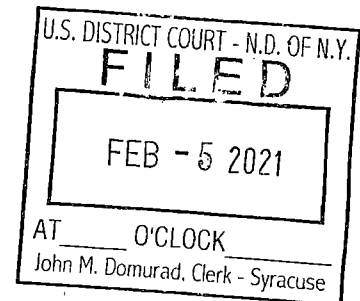
Jury Trial: (check one)



Yes



No



COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Wellington, Garcia
Street Address	Caller Box 20, 181 Brand Road
City and County	Malone, Franklin County
State and Zip Code	New York, 12953
Telephone Number	
E-mail Address	

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

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Defendant No. 1

Name	D. McIntosh
Job or Title <i>(if known)</i>	Superintendent Bare Hill Corr, Fac.
Street Address	Caller Box 20, 181 Brand Road
City and County	Malone, New York 12953
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 2

Name	Lt. Dumas
Job or Title <i>(if known)</i>	Correctional Lieutenant, Bare Hill Corr, Fac.
Street Address	Caller Box 20, 181 Brand Road
City and County	Malone, New York 12953
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 3

Name	Sergeant Lagarde
Job or Title <i>(if known)</i>	Sergeant at Bare Hill Corr, Fac.
Street Address	Caller Box 20, 181 Brand Road
City and County	Malone, New York 12953
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	John Doe #1
Job or Title <i>(if known)</i>	Corrections Officer, Bare Hill Corr, Fac.
Street Address	Caller Box 20, 181 Brand Road
City and County	Malone, New York 12953
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

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Defendant No. 5

Name	John Doe #2
Job or Title (if known)	Corrections Officer, Bare Hill Corr, Fac.
Street Address	Caller Box 20, 181 Brand Road
City and County	Malone, New York 12953
State and Zip Code	
Telephone Number	
E-mail Address (if known)	

Defendant No. 6

Name	John Doe #3
Job or Title (if known)	Corrections Officer, Bare Hill corr, Fac.
Street Address	Caller Box 20, 181 Brand Road
City and County	Malone, New York 12953
State and Zip Code	
Telephone Number	
E-mail Address (if known)	

Defendant No. 7

Name	John Doe #4
Job or Title (if known)	Corrections Officer, Bare Hill Corr, Fac.
Street Address	Caller Box 20, 181 Brand Road
City and County	Malone, New York 12953
State and Zip Code	
Telephone Number	
E-mail Address (if known)	

Defendant No. 8

Name	John Doe #5
Job or Title (if known)	Corrections Officer, Bare Hill Corr, Fac.
Street Address	Caller Box 20, 181 Brand Road
City and County	Malone, New York 12953
State and Zip Code	
Telephone Number	
E-mail Address (if known)	

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Defendant No. 9

Name

John Doe #6Job or Title *(if known)*Corrections Officer, Bare Hill Corr, Fac.

Street Address

Caller Box 20, 181 Brand Road

City and County

Malone, New York 12953

State and Zip Code

Telephone Number

E-mail Address *(if known)*Defendant No. 10

Name

Job or Title *(if known)*

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address *(if known)*

Defendant No.

Name

Job or Title *(if known)*

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address *(if known)*

Defendant No.

Name

Job or Title *(if known)*

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address *(if known)*

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

☒ Federal question ☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

1. **Excessive use of force, and verbal harassment and threats, in violation of this plaintiff's Constitutional Eighth Amendment Rights.**
2. **Unreasonable search and seizure of this plaintiff's body cavity and sexual harassment, in violation of his Fourth Amendment Rights.**

B. If the Basis for Jurisdiction Is Diversity of Citizenship

1. The Plaintiff(s)

a. If the plaintiff is an individual

The plaintiff, *(name)* _____, is a citizen of the State of *(name)* _____.

b. If the plaintiff is a corporation

The plaintiff, *(name)* _____, is incorporated under the laws of the State of *(name)* _____, and has its principal place of business in the State of *(name)* _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)

a. If the defendant is an individual

The defendant, *(name)* _____, is a citizen of the State of *(name)* _____. Or is a citizen of *(foreign nation)* _____.

b. If the defendant is a corporation

The defendant, (name) _____, is incorporated under the laws of the State of (name) _____, and has its principal place of business in the State of (name) _____.

Or is incorporated under the laws of (foreign nation) _____, and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because (explain):

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

On or about October 21, 2020, I was than taken to the Special Housing Unit (SHU) at BARE HILL CORRECTIONAL FACILITY. Upon entering SHU, I was beaten and treaten by Officer Joe Doe 1, John Doe 2, and John Doe 3. I was beaten in the Rib Cage area, and Kicked in my Legs. Officer John Doe 1, than orders me to take off my socks. At that time, he than proceeds to step on my foot and toes, and twist his boots on my feet.

(See Attached pages)

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

This plaintiff seeks One Million Dollars in 1,000.000.00 in punitive damages for the conduct of all of the defendant's. In their offical and un-officeal capacities.

III. Statement of Claims Continued.

I started to experience excrutitating pain in my legs and foot. I was than excorted to cell # 31 in SHU. This plaintiff than asked when will he be giving food, and was than told by John Doe 1, that he will not be getting any food down here.

On or about October 22, 2020, at around 4:30 to 5:00 P.M. This plaintiff was than taken out of cell # 31 by John Doe 4 and John Doe 5. At that time, John Doe 4 (A tall caucasian Officer) and was searched for a weapon upon going to a disciplinary hearing. John Doe 4 than put his hands inside this plaintiff's pants, and put his fingers in between this plaintiff's buttocks, and than grabbed and squeezed his penis. Than threatened this plaintiff if he said anything about what happened to anyone.

On or about october 22, 2020, This plaintiff was than taken out of cell # 31, and taken to cell # 27. Cell # 27 has a broken window that do not close. It was at that time. winter and the temperture at night had dropped substantially, and the cell was very cold. This plaintiff was only given one (1) sheet to cover himself with. John Doe 5 and John Doe 6 told this plaintiff to suffer, and that he will not be leaving this building alive.

On or about October 27, 2020, this plaintiff was taken out of this cell # 27 and excorted to a disciplinary hearing. At this hearing this plaintiff informed the hearing officer of the abuse, and sexual assault by the SHU officers on the hearing tape. But was ignored by the hearing officer Lt. Dumas.

On or about October 28, 2020, this plaintiff was taken to the facility infirmary. Before being excorted to the infirmary, this plaintiff was threatened by sergent Lagarde, not to say anything about being denied food or sexually assaulted by officers to the medical staff.

III. Statement of Claims Continued.

That if this plaintiff did so, he will be peppered-sprayed and beaten upon his return to SHU. Sergeant Lagarde than intimidated this plaintiff, by staying in the examination room with the medical staff, during the entire examination of this plaintiff.

On or about October 28, 2020, After the examination by the facility medical staff. It was determined that this plaintiff was suffering from Dehydration, and severe lost of weight of 10 pounds in one week. At that time, this plaintiff was excorted to the out-side hospital (Alycy Hyde Medical Center) for an examination and observation. This plaintiff than informed the nurse and doctor, that he was being starved and abused in Bare Hill Correctional Facility.

This plaintiff was not given any food by correction staff in SHU from October 21, 2020 until October 28, 2020. By any SHU staff member at Bare Hill Correctional Facility.

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

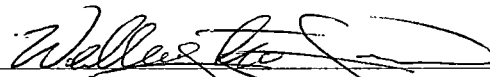
A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 2-01-21

Signature of Plaintiff

Printed Name of Plaintiff


Wellington, Garcia

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address